§12-52.1

HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISON

PART 1

GENERAL, LEGAL, AND ADMINISTRATIVE PROVISIONS FOR OCCUPATIONAL SAFETY AND HEALTH

CHAPTER 52.1

RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

§12-52.1-1	State amendmen	ts	to 29 C	.F.R. §1904
§12-52.1-2	Incorporation	of	federal	standard

<u>Historical Note:</u> Chapter 12-52.1 is based substantially upon chapter 12-52. [Eff 7/12/82; am 5/28/83; am 8/15/87; am 9/30/94; am 2/8/97; am 7/10/97; am 7/6/99; R 12/29/01]

\$12-52.1-1 State amendments to 29 C.F.R. \$1904.

(a) 29 C.F.R. \$1904.1(a)(1) is amended to read as follows:

Basic requirement. (1) If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless HIOSH, OSHA, or the Bureau of Labor and Statistics (BLS) informs you in writing that you must keep records under 29 C.F.R. §1904.37, §1904.41, or §1904.42. However, as required by 29 C.F.R. §1904.39 all employers covered by chapter 396, HRS, Hawaii Occupational Safety and Health Law, must report to HIOSH any workplace incident that results in an employee fatality or the inpatient hospitalization of an employee, employee's amputation, employee's loss of an eye, or property damage greater than \$25,000.

- (b) 29 C.F.R. \$1904.2(a)(1) is amended to read as follows:
- Basic requirement. (1) If your business establishment is classified in a specific low hazard retail, service, finance, insurance, or real estate industry listed in Appendix A, titled "Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries", dated March 17, 2017, which is made part of this section and located at the end of this section, you do not need to keep OSHA injury and illness records unless the government asks you to keep records under 29 C.F.R. §1904.37, §1904.41, or \$1904.42. However, all employers must report to HIOSH any workplace incident that results in an employee fatality or the inpatient hospitalization of an employee, employee's amputation, employee's loss of an eye, or property damage greater than \$25,000 (see 29 C.F.R. §1904.39(a)).
- (c) 29 C.F.R. \$1904.29(b)(2) is amended to read as follows:
- (2) What do I need to do to complete an OSHA 301 Incident Report? You must complete an OSHA 301 Incident Report form, or an equivalent form that

contains the same information required on the OSHA 301 Incident Report form, for each recordable injury or illness that is required to be entered on the OSHA 300 Log.

- (d) 29 C.F.R. §1904.37(c) is added to read as follows:
- (c) If you receive an OSHA occupational injury and illness data collection form or any other type of injury and illness survey authorized by HIOSH, you must respond to the survey or request, and return it to the designated recipient within the specified time limit.
- (e) 29 C.F.R. \$1904.39(a) is amended to read as follows:
- (a) Basic requirement. Within eight (8) hours after the death of any employee from a work-related incident, and within twenty-four (24) hours of the inpatient hospitalization of an employee, employee's amputation, employee's loss of an eye as a result of a work-related incident, or property damage in excess of \$25,000 as a result of a work-related incident, you must orally report the fatality, inpatient hospitalization, amputation, loss of an eye, or property damage by telephone, (808) 586-9102, or in person at the HIOSH office in Honolulu.
- (f) 29 C.F.R. \$1904.39(b)(1) is amended to read as follows:
- (b) Implementation. (1) If the HIOSH office is closed, may I report the incident by leaving a message on HIOSH's answering machine, faxing the area office, or sending an e-mail? When the HIOSH office is closed, the (808) 586-9102 telephone number will allow you to leave a phone message. In order for the message to be considered officially reported, all of the information in 29 C.F.R. §1904.39(b)(2) must be provided on the answering machine message.
- (g) 29 C.F.R. \$1904.39(b)(11) is amended to read as follows:

- (11) How does HIOSH define "amputation"? An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, which has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; and amputations of body parts that have since been reattached.
- (h) 29 C.F.R. §1904 Non-Mandatory Appendix A to Subpart B Partially Exempt Industries is amended for the duration of the HIOSH Strategic Plan. The industries with NAICS codes 4812, 4879, and 4885 have been included in the HIOSH Strategic Plan and will continue to be required to maintain the injury and illness log for the duration of HIOSH's Strategic Plan unless the establishment has less than eleven (11) employees. 29 C.F.R. §1904 Non-Mandatory Appendix A to Subpart B Partially Exempt Industries is amended to read as follows:

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following North American Industry Classification System (NAICS) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by company size or industry classification, must report to OSHA any workplace incident that results in a fatality, the inpatient hospitalization, amputation, or loss of an eye of an employee (see 29 C.F.R. §1904.39).

Non-Mandatory Appendix A to Subpart B-Partially Exempt Industries

March 17, 2017

CODE 4431. Electronics and Appliance Stores 4461. Health and Personal Care Stores 4471. Gasoline Stations 4481. Clothing Stores 4482. Shoe Stores 4483. Jewelry, Luggage, and Leather Goods Stores 4511. Sporting Goods, Hobby, and Musical Instrument Stores 4512. Book, Periodical, and Music Stores 4531. Florists 4532. Office Supplies, Stationary, and Gift Stores 5121. Motion Picture and Video Industries 5122. Sound Recording Industries 5121. Radio and Television Broadcasting Mireless Telecommunications Carriers (except Satellite). 5179. Other Telecommunications 5182. Data Processing, Hosting, and Related Services Accounting, Tax Preparation, Bookkeeping, and Payroll Services Architectural, Engineering, and Related Services Computer Systems 5415. Specialized Design Services Computer Systems 5416. Design and Related Services Management, Scientific, and Technical Consulting Services 5417. Technical Consulting Services Advertising and Related Services Advertising and Related Services Advertising and Related Services Advertising and Related Services	NAICS	INDUSTRY DESCRIPTION	NAICS	INDUSTRY
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Related Services Advertising and S191 Other Information Related		Hosting, and		- I
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Services Services	5191	Other Information		
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5221	Depository Credit	5615	Management of
7221	Intermediation	7017	Companies and
5222	Nondepository Credit		Enterprises
3222	Intermediation	5616	Travel
5223	Activities Related	3010	
3223		C111	Arrangement and
	to Credit	6111	Reservation
F 0 0 7	Intermediation	6110	Services
5231	Securities and	6112	Investigation
	Commodity Contracts	6113	and Security
	Intermediation and		Services
	Brokerage		Elementary and
5232	Securities and		Secondary
	Commodity Exchange	6114	Schools
5239	Other Financial		Junior College
	Investment		Colleges,
5241	Activities		Universities,
5242	Insurance Carriers	6115	and
	Agencies,		Professional
	Brokerages, and	6116	Schools
5251	Other Insurance		Business Schools
	Related Activities	6117	and Computer
	Insurance and		and Management
	Employee Benefit	6211	Training
	Funds		Technical and
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			Health
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[Eff 12/29/01; am 4/29/02; am 1/10/03; am 2/19/17; am 8/18/18] (Auth: HRS \$396-4) (Imp: HRS \$396-4)

\$12-52.1-2 Incorporation of federal standard.
Title 29, Part 1904 of the Code of Federal Regulations,
2017 Edition published as of July 1, 2017, by the U.S.
Government Printing Office, U.S. Superintendent of
Documents, Washington, DC 20402-0001, is made part of
this chapter, except as provided in section 12-52.1-1.
[Eff 12/29/01; am 1/10/03; am 5/21/04; am 5/5/05; am
2/13/12; am 2/19/17; am 8/18/18] (Auth: HRS \$396-4)
(Imp: HRS \$396-4)